**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **OPTICAL SPECTROSCOPY PATHLENGTH MEASUREMENT SYSTEM**; the specification of which is attached hereto;

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

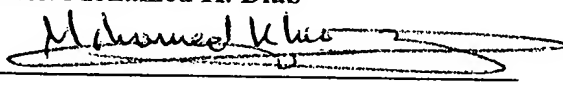
I hereby claim the benefit under Title 35, United States Codes § 119(e) of any United States provisional application(s) listed below.

Application No.: 60/226,428

Filing Date: 08/18/2000

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole inventor: **Mohamed K. Diab**

Inventor's signature 

Date 27 - July - 2001

Residence: **25075 White Spring, Mission Viejo, CA 92692**

Citizenship: **U.S.**

Post Office Address: **Same**

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995

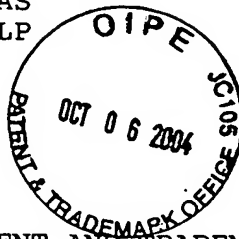
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OCTOBER 17, 2001

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STEPHEN C. JENSEN
SIXTEENTH FLOOR
620 NEWPORT CENTER DRIVE
NEWPORT BEACH, CA 92660



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NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/09/2001

REEL/FRAME: 012068/0737
NUMBER OF PAGES: 2

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

DIAB, MOHAMED K.

DOC DATE: 07/27/2001

ASSIGNEE:

MASIMO CORPORATION
2852 KELVIN AVENUE
IRVINE, CALIFORNIA 92614

SERIAL NUMBER: 09925982
PATENT NUMBER:

FILING DATE: 08/09/2001
ISSUE DATE:

PAULA MCCRAY, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

Client Code: MASIMO.236A

08-17-2001

REC



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ments or copy thereof.

11000 U.S. PTO
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TO THE ASSISTANT COMMISSIONER FOR PA.

1. Name of conveying party(ies): (If multiple assignors, list numerically)

1. Mohamed K. Diab

Additional name(s) of conveying party(ies) attached?

() Yes (X) No

2. Name and address of receiving party(ies):

Name: Masimo Corporation

Internal Address: Same as street address

Street Address: 2852 Kelvin Avenue

City: Irvine State: CA ZIP: 92614

Additional name(s) of receiving party(ies) attached?

() Yes (X) No

3. Nature of conveyance:

- (X) Assignment
() Merger
() Security Agreement
() Change of Name
() Other:

Execution Date: (If multiple assignors, list execution dates in numerical order corresponding to numbers indicated in 1 above) July 27, 2001

4. Application number(s) or Patent number(s):

(X) Application(s) filed herewith
Execution Date(s): August 9, 2001

() Patent Application No.:
Filing Date:

() Patent No.:
Issue Date:

Additional numbers attached? () Yes (X) No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Stephen C. Jensen
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995

Internal Address: Sixteenth Floor

Street Address: 620 Newport Center Drive

City: Newport Beach State: CA ZIP: 92660

Attorney's Docket No.: MASIMO.236A

7. Total fee (37 CFR 3.41): \$40

(X) Enclosed

(X) Authorized to be charged to deposit account if any additional fees are required, or to credit any overpayment

8. Deposit account number: 11-1410

Please charge this account for any additional fees which may be required, or credit any overpayment to this account.

6. Total number of applications and patents involved: 1

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct, and any attached copy is a true copy of the original document.

Stephen C. Jensen
Name of Person Signing

Signature

Date

8/9/01

35,556 Registration No.

Total number of pages including cover sheet, attachments and document: 2

Mail documents to be recorded with required cover sheet information to:

U.S. Patent and Trademark Office
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Application No.: Unknown
Filing Date: Herewith

Client Code: MASIMO.236A
Page 1

ASSIGNMENT

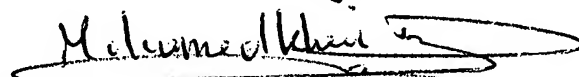
WHEREAS, I, Mohamed K. Diab, a U.S. citizen, residing at 25075 White Spring, Mission Viejo, CA 92692, have invented certain new and useful improvements in a OPTICAL SPECTROSCOPY PATHLENGTH MEASUREMENT SYSTEM for which I have executed an application for Letters Patent in the United States, 60/226,428; 08/18/2000;

AND WHEREAS, Masimo Corporation (hereinafter "ASSIGNEE"), a Delaware Corporation, with its principal place of business at 2852 Kelvin Avenue, Irvine, CA 92614, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, I, the said inventor, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I HEREBY covenant and agree that I will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 27th day of July, 2001



Mohamed K. Diab

STATE OF California }
COUNTY OF Orange } ss.

On July 27, 2001, before me, Valere L. Begnoche, personally appeared Mohamed K. Diab personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]


Notary Signature

